

1 MELINDA HAAG (CABN 132612)  
2 United States Attorney

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RICHARD H. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

EMC

11  
12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

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16 EBRAHIM SHABUDIN and  
17 THOMAS YU,

18 Defendants.  
19  
20

CR

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0664

VIOLATIONS: 18 U.S.C. § 1349 – Conspiracy to  
Commit Securities Fraud; 18 U.S.C. § 1348 –  
Securities Fraud; 15 U.S.C. §§ 78m(b)(2)(A),  
78m(b)(5), 78ff and 17 C.F.R. § 240.13b2-1 –  
Falsifying Corporate Books and Records; 15  
U.S.C. § 78ff and 17 C.F.R. § 240.13b2-2 –  
False Statements to Accountants of a Publicly  
Traded Company; 18 U.S.C. § 2 – Aiding and  
Abetting; 18 U.S.C. § 981(a)(1)(C) and 28  
U.S.C. § 2461 – Forfeiture of Fraud Proceeds

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INDICTMENT

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The Grand Jury charges:

## INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment, unless otherwise indicated:

## I. Background

A. The Bank

1. United Commercial Bank (UCB) was a commercial bank headquartered in San Francisco, California, with branch offices throughout the United States as well as in China and Taiwan. UCB provided a full range of commercial and consumer banking products to businesses and individuals.

2. UCBH Holdings, Inc. (UCBH), a Delaware corporation, was the holding company for UCB. UCBH was a publicly traded company whose shares were registered with the United States Securities and Exchange Commission (SEC) and were traded on the National Association of Securities Dealers Automatic Quotation (NASDAQ) system under the symbol "UCBH." Hereafter, UCBH and UCB are referred to collectively as "the Bank."

3. As a public company, the Bank was required to comply with the SEC's rules and regulations, which were designed to protect the investing public. Under those rules and regulations, the Bank was required to (a) make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflected the transactions and disposition of the assets of the Bank; (b) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that the Bank's transactions were recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles; and (c) file annual reports with the SEC that contained audited financial statements that accurately and fairly presented the financial condition of the Bank, as well as other reports that contained information about the Bank's management, board of directors, business operations and performances.

4. A public accounting firm acted as the independent auditor of the Bank's annual financial statements and reviewed the financial statements it filed quarterly.

1           5.       The Bank was regulated by, among other agencies, the Federal Deposit Insurance  
2 Corporation (the FDIC). The FDIC required, among other things, that the Bank be adequately  
3 capitalized and safely managed at all times.

4           B.       The Defendants

5           6.       Defendant EBRAHIM SHABUDIN was a resident of Moraga, California, and an  
6 Executive Vice President of the Bank. From approximately September 2008 through April 2009,  
7 SHABUDIN served as the Bank's Chief Credit Officer and the Chief Operating Officer.

8           7.       Defendant THOMAS YU was a resident of San Ramon, California, and a Senior  
9 Vice President of the Bank. From approximately June 2008 through June 2009, YU served as  
10 the Bank's Manager of Credit Risk and Portfolio Management.

11          C.       The Bank's Loan Loss Allowance

12          8.       The Bank's business loans were booked as assets on the quarterly and annual  
13 financial statements filed with the SEC. Interest accrued on business loans was booked as  
14 revenue on those quarterly and annual financial statements.

15          9.       The Bank assigned risk ratings to its loans. Each rating represented the current  
16 likelihood, based on all available information, that the borrower would pay the amount due under  
17 the borrower's loan agreement with the Bank. Changes in risk ratings were reflected in internal  
18 records specifically prepared for that purpose.

19          10.      The Bank deemed a loan to be "impaired" if, based on all current information, it  
20 was probable that the Bank would be unable to collect all of the amounts due under the loan  
21 agreement. On a quarterly basis, the Bank represented to its regulators, its auditor, and the  
22 investing public that the Bank had estimated the total dollar amount of outstanding loans that the  
23 Bank would probably not collect from borrowers. This estimate, identified on the Bank's  
24 quarterly and annual financial statements as the "Allowance for Loan Losses" (hereafter, the  
25 "Loan Loss Allowance"), was derived from, among other things, the Bank's risk ratings as well  
26 as the value of the collateral securing the Bank's loans.

27          11.      By decreasing the Loan Loss Allowance, the Bank increased net assets on the  
28 balance sheet and increased net income on the income statement. For this reason, the size of the

1 Bank's Loan Loss Allowance was material to stock analysts and the investing public. The  
2 Bank's Loan Loss Allowance was also material to bank regulators such as the FDIC, which  
3 monitored the Bank's Loan Loss Allowance and total assets to ensure that the Bank was  
4 adequately capitalized.

5 D. The Bank's Expanding Loan Portfolio

6 12. Between 2004 and 2007, the Bank's loan portfolio increased from approximately  
7 \$4.4 billion to more than \$8 billion. By September 2008, the Bank's loan portfolio faced  
8 growing losses.

9 13. On or about October 3, 2008, Congress created the Troubled Asset Relief  
10 Program (the TARP), as part of the Emergency Economic Stabilization Act of 2008.

11 14. On or about November 14, 2008, the United States provided approximately \$298  
12 million in TARP funds to the Bank.

13 II. The Scheme to Defraud

14 A. Objectives of the Scheme to Defraud

15 15. Beginning in or about September 2008, SHABUDIN and YU, together with  
16 others, engaged in a fraudulent scheme to deceive the investing public, depositors, the SEC, the  
17 Bank's auditor, and bank regulators including bank examiners with the FDIC, by manipulating  
18 the Bank's books and records in a manner that, as they well knew, (a) misrepresented and  
19 concealed the Bank's true financial condition and performance by falsifying the books and  
20 records so they did not fairly and accurately reflect, in all material respects, the transactions and  
21 dispositions of the assets of the Bank, and omitted facts necessary to make the books and records  
22 complete and accurate; and (b) caused the Bank to issue false and misleading statements and  
23 representations about its financial condition and performance, because such statements did not  
24 fairly and accurately, in all material respects, reflect the Bank's actual financial condition and  
25 performance, and omitted facts necessary to make those statements complete and accurate.

26 16. The objectives of the scheme to defraud were, among other things, to (a) conceal,  
27 delay, and avoid publicly reporting the Bank's number of impaired loans; (b) conceal, delay, and  
28 avoid publicly reporting the Bank's true loan losses; (c) mislead investors through false

1 statements relating to information material to their decision to buy, sell, or hold the Bank's  
2 securities; (d) mislead depositors about information relevant to their decision to keep their funds  
3 at the Bank; and (e) mislead bank regulators, such as the FDIC, about whether the Bank was  
4 adequately capitalized and effectively managed.

5 B. Manner and Means of the Scheme to Defraud

6 17. In furtherance of the scheme to defraud, SHABUDIN and YU, and others, utilized  
7 a variety of fraudulent accounting maneuvers and techniques. Among other things, SHABUDIN  
8 and YU, and others, caused the Bank to:

9 (a) fraudulently conceal information showing the Bank's loan collateral and  
10 repossessed assets had declined in value:

11 (b) fraudulently rate the risk of certain loans; and

12 (c) fraudulently delay the downgrading of the risk ratings of certain loans.

13 18. As a further part of the scheme to defraud, SHABUDIN and YU, and others,  
14 falsified the Bank's books and records. Among other things, SHABUDIN and YU, and others,  
15 prepared and caused to be prepared various records and memoranda that both falsely described,  
16 and omitted material information necessary to accurately describe, the likelihood that loans  
17 would be repaid pursuant to the Bank's loan agreements and the value of the Bank's loan  
18 collateral and repossessed assets. As a consequence, the description of the Bank's loans and  
19 repossessed assets presented in those records and memoranda was false, misleading, and  
20 fraudulent.

21 19. As a further part of the scheme to defraud, SHABUDIN and YU, and others,  
22 misled and lied to the Bank's auditor. SHABUDIN and YU, and others, also failed to disclose to  
23 the Bank's auditor facts necessary to make their statements and representations complete and  
24 accurate. For example, SHABUDIN and YU, and others:

25 (a) misrepresented, and caused to be misrepresented, to the Bank's auditor, records  
26 and memoranda that provided a materially false, misleading, and fraudulent description of  
27 various Bank loans and the collateral securing those loans;

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1 (b) concealed and omitted from the Bank's records material information relating to  
2 the existence of recent appraisals of collateral that secured various Bank loans;

3 (c) concealed and omitted from the Bank's records material information relating to  
4 the value of repossessed assets and collateral; and

5 (d) concealed and omitted from the Bank's records material information relating to  
6 the Bank's intention to sell various loans, as well as pending loan sales.

7 20. As a further part of the fraudulent scheme, SHABUDIN and YU, and others,  
8 caused the Bank to issue materially false and misleading public statements and reports regarding  
9 its financial condition and performance in, among other things:

10 (a) a press release issued on or about January 22, 2009;

11 (b) an earnings call held on or about January 23, 2009; and

12 (c) an annual report on SEC Form 10-K filed with the SEC on or about March 16,  
13 2009, that contained its financial statements for the year 2008.

14 21. On or about May 20, 2009, the Bank announced that the financial statements  
15 contained in its March 16, 2009 SEC Form 10-K were unreliable, withdrew those financial  
16 statements, and announced that it intended to restate them.

17 22. The Bank failed in November 2009, without filing restated financial statements  
18 for the year 2008. As a result of the Bank's failure, the FDIC became the Bank's receiver and  
19 has paid out approximately \$397 million. The estimated losses to the FDIC are approximately  
20 \$2.5 billion. To date, none of the TARP funds have been repaid.

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1 COUNT ONE: (18 U.S.C. § 1349 – Conspiracy to Commit Securities Fraud)

2 23. The allegations in Paragraphs 1 through 22 are realleged and incorporated as if  
3 fully set forth here.

4 24. Beginning in or about September 2008, and continuing through in or about April  
5 2009, both dates being approximate and inclusive, in the Northern District of California and  
6 elsewhere, the defendants,

7 EBRAHIM SHABUDIN and  
8 THOMAS YU,

9 and others, did knowingly and intentionally attempt and conspire to execute a scheme and artifice  
10 to (a) defraud persons in connection with securities of UCBH, an issuer with a class of securities  
11 that was registered under Section 12 of the Securities Exchange Act of 1934, and (b) obtain, by  
12 means of materially false and fraudulent pretenses, representations and promises, and by  
13 statements containing material omissions, money and property in connection with the purchase  
14 and sale of securities of UCBH, an issuer with a class of securities that was registered under  
15 Section 12 of the Securities Exchange Act of 1934, in violation of Title 18, United States Code,  
16 Section 1348.

17 All in violation of Title 18, United States Code, Section 1349.

18 COUNT TWO: (18 U.S.C. §§ 1348, 2 – Securities Fraud)

19 25. The allegations in Paragraphs 1 through 24 are realleged and incorporated as if  
20 fully set forth here.

21 26. Beginning in or about September 2008, and continuing through in or about April  
22 2009, both dates being approximate and inclusive, in the Northern District of California and  
23 elsewhere, the defendants,

24 EBRAHIM SHABUDIN and  
25 THOMAS YU,

26 and others, did knowingly and intentionally execute, and attempted to execute, a scheme and  
27 artifice to (a) defraud persons in connection with securities of UCBH, an issuer with a class of  
28 securities that was registered under Section 12 of the Securities Exchange Act of 1934, and (b)

1 obtain, by means of materially false and fraudulent pretenses, representations and promises, and  
2 by statements containing material omissions, money and property in connection with the  
3 purchase and sale of securities of UCBH, an issuer with a class of securities that was registered  
4 under Section 12 of the Securities Exchange Act of 1934, and did aid and abet in the same.

5 All in violation of Title 18, United States Code, Sections 1348 and 2.

6 COUNT THREE: (15 U.S.C. §§ 78m(b)(2)(A), 78m(b)(5), 78ff and 17 C.F.R. 240.13b2-1; 18  
7 U.S.C. § 2 – Falsifying Corporate Books and Records)

8 27. The allegations in Paragraphs 1 through 26 are realleged and incorporated as if  
9 fully set forth here.

10 28. Beginning in or about September 2008, and continuing through in or about April  
11 2009, both dates being approximate and inclusive, in the Northern District of California and  
12 elsewhere, the defendants,

13 EBRAHIM SHABUDIN and  
14 THOMAS YU,

15 and others, did knowingly and willfully, directly and indirectly, falsify and cause to be falsified  
16 books, records, and accounts of UCBH, and did aid and abet in the same.

17 All in violation of Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b)(5) and  
18 78ff; Title 17, Code of Federal Regulations, Section 240.13b2-1; and Title 18, United States  
19 Code, Section 2.

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1 COUNT FOUR: (15 U.S.C. § 78ff and 17 C.F.R. § 13b2-2; 18 U.S.C. § 2 – False Statements to  
2 Accountants of a Publicly Traded Company)

3 29. The allegations in Paragraphs 1 through 28 are realleged and incorporated as if  
4 fully set forth here.

5 30. Beginning in or about September 2008, and continuing through in or about April  
6 2009, both dates being approximate and inclusive, in the Northern District of California and  
7 elsewhere, the defendants,

8 EBRAHIM SHABUDIN and  
9 THOMAS YU,

10 and others, did knowingly and willfully make and cause to be made materially false and  
11 misleading statements to UCBH's auditors in connection with the audit, review, and examination  
12 of UCBH's financial statements, and in connection with the preparation of documents and  
13 reports required to be filed with the SEC, and did knowingly and willfully omit to state material  
14 facts necessary in order to make statements made, in light of the circumstances in which such  
15 statements were made, not misleading, and did aid and abet in the same.

16 All in violation of Title 15, United States Code, Section 78ff; Title 17, Code of Federal  
17 Regulations, Section 240.13b2-2; and Title 18, United States Code, Section 2.

18 FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461)

19 31. Paragraphs 1 through 26 of this Indictment are re-alleged and incorporated as if  
20 fully set forth here for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. §  
21 981(a)(1)(C).

22 32. Upon a conviction for any violations of Title 18, United States Code, Sections  
23 1349 and 1348, as alleged in Counts One and Two, the defendants,

24 EBRAHIM SHABUDIN and  
25 THOMAS YU,

26 shall forfeit to the United States any property, real or personal, which constitutes or is derived  
27 from proceeds traceable to said offense, including but not limited to a sum of money equal to the  
28 total proceeds from the commission of said offense.

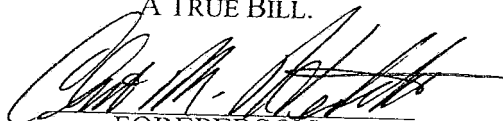
- 1           33.    If, as a result of any act or omission of the defendants, any of said property  
2               a.       cannot be located upon the exercise of due diligence;  
3               b.       has been transferred or sold to or deposited with, a third person;  
4               c.       has been placed beyond the jurisdiction of the Court;  
5               d.       has been substantially diminished in value; or  
6               e.       has been commingled with other property which cannot be divided without  
7                       difficulty;

8 any and all interest defendants have in any other property up to the value of the property  
9 described in Paragraph 32 above, shall be forfeited to the United States pursuant to Title 18,  
10 United States Code, Section 981(a)(1)(C), as incorporated by Title 28, United States Code,  
11 Section 2461.

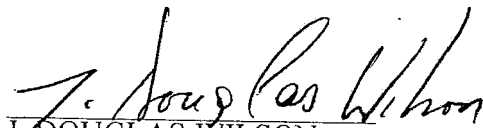
12           All in violation of Title 18, United States Code, Sections 981(a)(1)(C), 1348, 1349; Title  
13 28, United States Code, Section 2461; and Rule 32.2 of the Federal Rules of Criminal Procedure.  
14  
15


16 Dated: September 15, 2011

A TRUE BILL.

17   
18 FOREPERSON  
19

20 MELINDA HAAG  
21 United States Attorney

22   
23 J. DOUGLAS WILSON  
24 Acting Chief, Criminal Division

25  
26 (Approved as to form: )  
27 AUSA JEFFREY RABKIN  
28